

Express Mail Label No. EQ 288 696 924 US

Attorney Docket I

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of

Registration No.: 3143997  
For the mark: www.east13.com  
Date registered: September 19, 2006

Registration No.: 3147241  
For the mark: east13  
Date registered: September 26, 2006

Registration No.: 3158549  
For the mark: East Thirteen  
Date registered: October 17, 2006

76/632,663

LIVE VENTURES INC.

PETITIONER,

v.

SAROJ INTERNATIONAL, INC.

REGISTRANT.

CANCELLATION No. 92047661

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**PETITIONER'S SECOND MOTION FOR PROTECTIVE ORDER.****04-14-2009**

Pursuant to 37 C.F.R. § 2.120(f), petitioner Live Ventures Inc. ("Petitioner" or "Live Ventures") hereby moves for an order protecting Petitioner from discovery requests ("Requests") of registrant Saroj International, Inc. ("Registrant" or "Saroj") because Registrant failed to serve Petitioner with, and never provided copies of, the alleged Requests.

One year ago, Petitioner first moved for a protective order on the same ground (docket entry #9) ("First Motion"), but the motion was denied as moot when the Board ordered Registrant on May 19, 2008 (docket entry #10) to show cause why Registrant's apparent loss of interest in this case should not be treated as a concession of the case ("Order to Show Cause"). Since the First Motion, Petitioner again asked Registrant several times to provide copies of the alleged discovery requests; yet, Registrant did not respond in any way and failed to provide the requested copies.

This motion is supported by the declaration of Norbert Stahl ("Stahl Dec"), filed herewith, which includes a statement of good faith effort to resolve the issues brought under this motion, and Exhibits A through C attached to the Stahl Dec.

### **STATEMENT OF FACTS**

#### **A. Petitioner's First Motion for Protective Order.**

On April 9, 2008, Petitioner moved for a Protective Order, supported by the declaration of Norbert Stahl ("First Stahl Dec.") (docket entry #9). As the First Motion and First Stahl Dec. are already on file with the Board, Petitioner does not submit those materials again and hereby incorporates the First Motion and the First Stahl Dec., both in their entirety, into this Motion by reference.

Petitioner filed the First Motion because

(a) Registrant mentioned discovery requests in a facsimile of April 2, 2008 by Registrant on Petitioner (First Stahl Dec., Ex. D);

(b) Petitioner never received a copy of any discovery request(s) of any kind from Registrant (not by mail, email, or any other means) (First Stahl Dec., Ex. E); and

(c) Petitioner had asked Registrant several times (see, letters of April 2, 2008; April 4, 2008; April 7, 2008 (First Stahl Dec., Exs. E, F, G)) to provide copies of any discovery requests so Petitioner could respond, but no copies were ever provided by Registrant. First Motion, p. 2; First Stahl Dec., Exs. E, F, G.

**B. The Board's Order to Show Cause.**

On May 19, 2008, the Board ordered Registrant "to show cause why the Board should not treat respondent's apparent loss of interest in this case as a concession of the case." Order to Show Cause, p. 2; docket entry #10. The Board issued the Order to Show Cause because Registrant had failed to respond to Petitioner's motion for sanctions, filed concurrently with the First Motion for protective order and a motion to extend time on April 9, 2008 (docket entry #9). Petitioner moved for sanctions because Registrant had failed to provide discovery the Board had ordered on February 21, 2008.

In the Order to Show Cause, the Board noted the First Motion for protective order, but denied it as moot at that time. Order to Show Cause, p. 1 n1; docket entry #10.

**C. Registrant's Response to Order to Show Cause.**

On June 19, 2008, Registrant filed a response to the Board's Order to Show Cause. Docket entry #11. In the response, Registrant alleged that it "served on Petitioner on February 25, 2008, a Request for Production of Documents" but failed to

include a copy of the alleged Request, or any other evidence thereof, with its response.

Response, p. 2; docket entry #11.

**D. The Board's Order Granting Sanctions Against Registrant.**

On December 12, 2008, the Board granted Petitioner's motion for sanctions, "find[ing] that respondent has engaged in a pattern of non-cooperation and nonresponsiveness in this proceeding." Order re Sanctions, p. 3; docket entry #13 ("Order Granting Sanctions").

The Board also noted the First Motion for protective order as "denied as moot" and that proceedings "have been suspended ... since April 9, 2008." Order re Sanctions, p. 1 n1; docket entry #13.

**E. Petitioner Asked Registrant Again Several Times for Copies of Registrant's Alleged Discovery Requests, but Registrant Did Not Respond in Any Way.**

Petitioner again repeatedly requested a copy of any alleged discovery request(s) by Registrant. Stahl Dec., Exs. A, B, C. Registrant failed to provide a copy or respond in any way to Petitioner's requests. Stahl Dec., ¶6.

**ARGUMENT**

**A. Petitioner Has Still Not Been Provided With, or Served With, Any Discovery Requests of Registrant.**

Prior to filing its First Motion for protective order, Petitioner had asked Registrant on multiple occasions for copies of alleged discovery request, but to no avail. First Stahl Dec., Exs. E, F, G, ¶12. Even today, after further inquiries, Petitioner has still not been provided with a copy of any alleged discovery request by Registrant.

As discussed in Petitioner's First Motion, the time for responding to discovery requests is 30 days from service of the requests. (37 CFR § 2.120(a), TBMP §§ 403.03.) Petitioner was never served with any discovery requests (Stahl Dec., Exs. A, B, C) and Registrant never responded to Petitioner's multiple requests to provide a copy of any alleged discovery requests (Stahl Dec., ¶6). Therefore, the period to respond to any discovery requests has therefore never begun to run against Petitioner.

**B. Petitioner Requests an Order Excusing Any Failure to Respond to Any Discovery Requests for Lack of Service.**

Petitioner submits that it would be unfair, and a violation of due process, to hold Petitioner to discovery requests that have never been served. Petitioner therefore requests an order excusing any potential failure by Petitioner to respond to any discovery request(s) by Registrant until the date of this motion or until 30 days after service of such requests, whichever is later.

Respectfully submitted,

Stahl Law Firm



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Norbert Stahl, Esq.  
Registration No. 44,350

Attorney for Petitioner  
LIVE VENTURES INC.

Date: April 13, 2008

**Correspondence Address:**

Stahl Law Firm  
2 Meadowsweet Lane  
San Carlos, CA 94070  
(650) 802-8800 (phone)  
(650) 802-8484 (fax)

CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing PETITIONER'S SECOND MOTION FOR PROTECTIVE ORDER has been served on Gary L. Eastman, Esq., Attorney for Registrant Saroj International, Inc., by mailing said copy on April 13, 2009, via First Class Mail, postage prepaid, to: Gary L. Eastman, APLC, 707 Broadway Street, Suite 1800, San Diego, California 92101.

Date: April 13, 2009

Stahl Law Firm



---

Norbert Stahl, Esq.  
Registration No. 44,350

Attorney for Petitioner  
LIVE VENTURES INC.

**Correspondence Address:**

Stahl Law Firm  
2 Meadowsweet Lane  
San Carlos, CA 94070  
(650) 802-8800 (phone)  
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
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LIVE VENTURES INC.

PETITIONER,

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SAROJ INTERNATIONAL, INC.

REGISTRANT.

CANCELLATION No. 92047661

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451

**DECLARATION OF NORBERT STAHL, INCLUDING STATEMENT  
OF GOOD FAITH EFFORT, IN SUPPORT OF PETITIONER'S  
SECOND MOTION FOR PROTECTIVE ORDER.**

I, Norbert Stahl, declare as follows:

1. I am an attorney licensed to practice in the State of California and registered to practice before the United States Patent and Trademark Office and I am a member of Stahl Law Firm. I represent Petitioner Live Ventures Inc. (Petitioner or "Live Ventures") in Cancellation No. 92047661 and I submit this declaration and statement of good faith effort in support of Petitioner's Second Motion for Protective Order against Registrant Saroj International, Inc. (Registrant or "Saroj"). I make this declaration based on my personal knowledge and could and would competently testify thereto if called as a witness.

3. Attached as Exhibit A is a true and correct copy of a letter I sent to counsel for Registrant on March 14, 2009, including true and correct copies of the facsimile transmission report and the email transmission.

4. Attached as Exhibit B is a true and correct copy of a letter I sent to counsel for Registrant on March 17, 2009, including true and correct copies of the facsimile transmission report and the email transmission.

5. Attached as Exhibit C is a true and correct copy of a letter I sent to counsel for Registrant on March 24, 2009, including true and correct copies of the facsimile transmission report and the email transmission.

6. Until today, Live Ventures has not received any discovery request of any kind from Saroj. Live Ventures has also not received any response of any kind to its requests for copies of any discovery requests from Saroj.



7. I believe that I made a good faith effort, by conference or correspondence, to resolve with Registrant the issues presented in the motions filed herewith but I have been unable to reach agreement. Due to Registrant's failure to cooperate in discovery and its failure to respond at all at this stage, Live Ventures is left with no choice but to bring the motions filed herewith.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed in San Carlos, California, on April 13, 2009.

By  \_\_\_\_\_

Norbert Stahl  
Registration No. 44,350

Attorney for Petitioner  
LIVE VENTURES INC.

**Correspondence Address:**

Stahl Law Firm  
2 Meadowsweet Lane  
San Carlos, CA 94070  
(650) 802-8800 (phone)  
(650) 802-8484 (fax)

## CERTIFICATE OF SERVICE

I hereby certify that a true and complete copy of the foregoing DECLARATION OF NORBERT STAHL, INCLUDING STATEMENT OF GOOD FAITH EFFORT, IN SUPPORT OF PETITIONER'S SECOND MOTION FOR PROTECTIVE ORDER, including Exhibits A through C thereto, has been served on Gary L. Eastman, Esq., Attorney for Registrant Saroj International, Inc., by mailing said copy on April 13, 2009, via First Class Mail, postage prepaid, to: Gary L. Eastman, APLC, 707 Broadway Street, Suite 1800, San Diego, California 92101.

Date: April 13, 2009

Stahl Law Firm



Norbert Stahl, Esq.  
Registration No. 44,350

Attorney for Petitioner  
LIVE VENTURES INC.

**Correspondence Address:**

Stahl Law Firm  
2 Meadowsweet Lane  
San Carlos, CA 94070  
(650) 802-8800 (phone)  
(650) 802-8484 (fax)

Cancellation No.: 92047661

LIVE VENTURES, INC. v. SAROJ INTERNATIONAL, INC.

Party Offering Exhibit: Live Ventures, Inc.

## **EXHIBIT A**

# STAHL LAW FIRM

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Intellectual Property Representation

March 14, 2009

Gary L. Eastman, APLC  
707 Broadway Street, Ste 1800  
San Diego, CA 92101

**PER FACSIMILE**

To: (619) 230-1194

**PER EMAIL**

To: garyeastman@sbcglobal.net

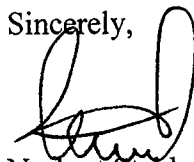
Total Page(s): 1

Re: LIVE VENTURES INC. V. SAROJ INTERNATIONAL, INC.  
Trademark Cancellation Proceeding No. 92047661

Dear Mr. Eastman:

This letter concerns allegations of Saroj International that it has served discovery requests on Live Ventures. We have not received any discovery requests of any kind (i.e., no interrogatories, no requests for documents, no requests for admissions, and nothing else) from Saroj throughout the captioned proceedings. We ask that Saroj immediately serve any discovery requests that Saroj alleges it served on Live Ventures. Upon receipt of those requests, we will provide timely responses. If Saroj does not serve its discovery requests, we ask that Saroj rescinds its allegation in these proceedings that it has served such discovery requests. If we receive neither a copy of the alleged discovery requests nor a rescission of Saroj's allegation by March 16, 2009, we will move for a protective order.

Sincerely,



Norbert Stahl

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\*\*\* TX REPORT \*\*\*  
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PAGES SENT 1  
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## STAHL LAW FIRM

Intellectual Property Representation

March 14, 2009

Gary L. Eastman, APLC  
707 Broadway Street, Ste 1800  
San Diego, CA 92101

**PER FACSIMILE**

To: (619) 230-1194

**PER EMAIL**

To: garyeastman@sbcglobal.net

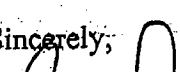
Total Page(s): 1

Re: **LIVE VENTURES INC. V. SAROJ INTERNATIONAL, INC.**  
Trademark Cancellation Proceeding No. 92047661

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Sincerely,

 LIVE VENTURES INC. V. SAROJ INTERNATIONAL, INC.  
Trademark Cancellation Proceeding No. 92047661

**From:** Norbert Stahl ()  
**To:** Gary Eastman  
**Date:** Saturday, March 14, 2009 4:02:21 PM  
**Subject:** Live Ventures v Saroj Internationa - Ltr re Saroj Alleged Discovery Requests

Please see attached.

Norbert Stahl, Esq.  
Stahl Law Firm  
2 Meadowsweet Ln  
San Carlos, CA 94070  
(650) 802-8800 (phone)  
(650) 802-8484 (fax)  
[www.patentlawservice.com](http://www.patentlawservice.com)

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Cancellation No.: 92047661

LIVE VENTURES, INC. v. SAROJ INTERNATIONAL, INC.

Party Offering Exhibit:      Live Ventures, Inc.

## **EXHIBIT B**

# STAHL LAW FIRM

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Intellectual Property Representation

March 17, 2009

Gary L. Eastman, APLC  
707 Broadway Street, Ste 1800  
San Diego, CA 92101

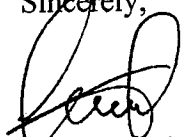
**PER FACSIMILE**  
To: (619) 230-1194  
**PER EMAIL**  
To: garyeastman@sbcglobal.net  
Total Page(s): 1

Re: LIVE VENTURES INC. v. SAROJ INTERNATIONAL, INC.  
Trademark Cancellation Proceeding No. 92047661

Dear Mr. Eastman:

We are writing with respect to our letter of March 14, 2009, regarding allegations of Saroj International that it has served discovery requests on Live Ventures. We asked in our March 14 letter for copies of any discovery requests that Saroj allegedly served on Live Ventures so we can provide responses. We have not received any response to our letter and we hereby ask again for copies of such alleged discovery requests by March 18, 2008 to avoid the need for a motion for a protective order.

Sincerely,



Norbert Stahl



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\*\*\* TX-REPORT \*\*\*  
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## STAHL LAW FIRM

Intellectual Property Representation

March 17, 2009

Gary L. Eastman, APLC  
707 Broadway Street, Ste 1800  
San Diego, CA 92101

PER FACSIMILE

To: (619) 230-1194

PER EMAIL

To: garyeastman@sbcglobal.net

Total Page(s): 1

Re: LIVE VENTURES INC. v. SAROJ INTERNATIONAL, INC.  
Trademark Cancellation Proceeding No. 92047661

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Sincerely,

  
Norbert Stahl

LIVE VENTURES INC. v. SAROJ INTERNATIONAL, INC.  
Trademark Cancellation Proceeding No. 92047661

**From:** Norbert Stahl ()  
**To:** Gary Eastman  
**Date:** Tuesday, March 17, 2009 3:13:53 PM  
**Subject:** Live Ventures v Saroj International - Second Ltr re alleged Discovery Requests

Please see attached.

Norbert Stahl, Esq.  
Stahl Law Firm  
2 Meadowsweet Ln  
San Carlos, CA 94070  
(650) 802-8800 (phone)  
(650) 802-8484 (fax)  
[www.patentlawservice.com](http://www.patentlawservice.com)

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Cancellation No.: 92047661

LIVE VENTURES, INC. v. SAROJ INTERNATIONAL, INC.

Party Offering Exhibit: Live Ventures, Inc.

## **EXHIBIT C**

# STAHL LAW FIRM

---

Intellectual Property Representation

March 24, 2009

Gary L. Eastman, APLC  
707 Broadway Street, Ste 1800  
San Diego, CA 92101

**PER FACSIMILE**

To: (619) 230-1194

**PER EMAIL**

To: garyeastman@sbcglobal.net

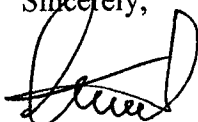
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Re: LIVE VENTURES INC. v. SAROJ INTERNATIONAL, INC.  
Trademark Cancellation Proceeding No. 92047661

Dear Mr. Eastman:

We are writing with respect to our letters of March 14 and 17, 2009, regarding allegations of Saroj International that it has served discovery requests on Live Ventures. We asked in our March 14 and 17 letters for copies of any discovery requests that Saroj allegedly served on Live Ventures so we can provide responses. We have not received any response to our letters and we hereby ask again for copies of such alleged discovery requests. If we do not receive a response by March 27, 2009, we will move for a Protective Order.

Sincerely,



Norbert Stahl

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\*\*\* TX REPORT \*\*\*  
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TX/RX NO 0141  
DESTINATION TEL # 18192301194  
DESTINATION ID  
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# STAHL LAW FIRM

Intellectual Property Representation

March 24, 2009

Gary L. Eastman, APLC  
707 Broadway Street, Ste 1800  
San Diego, CA 92101

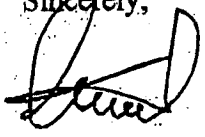
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Sincerely,



LIVE VENTURES INC. V. SAROJ INTERNATIONAL, INC.  
Trademark Cancellation Proceeding No. 92047661

**From:** Norbert Stahl ()  
**To:** Gary Eastman  
**Date:** Tuesday, March 24, 2009 6:24:16 PM  
**Subject:** Live Ventures v Saroj - Third Letter re Alleged Discovery Requests

Please see attached.

Norbert Stahl, Esq.  
Stahl Law Firm  
2 Meadowsweet Ln  
San Carlos, CA 94070  
(650) 802-8800 (phone)  
(650) 802-8484 (fax)  
[www.patentlawservice.com](http://www.patentlawservice.com)

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